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In re Application of:	:	
BRIDLE, Trevor, Redvers, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/526,714	:	37 CFR 1.47(a)
PCT No.: PCT/AU2003/001099	:	
International Filing Date: 26 August 2003	:	
Priority Date: 04 September 2002	:	
Attorney's Docket No.: 830001.000	:	
For: CONVERSION OF SLUDGES AND	:	
CARBONACEOUS MATERIALS	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 19 September 2005. Applicant has submitted the required petition fee.

**BACKGROUND**

On 26 August 2003, applicants filed international application PCT/AU2003/001099 which claimed a priority date of 04 September 2002 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 04 March 2005.

On 03 March 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 22 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date was required.

On 19 September 2005, applicants filed a response to the Notification Of Missing Requirements which included the required surcharge, a declaration executed by one of the two inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Stefan SKRYPSKI-MANTELE, whom applicants argue has refused to execute the application.

### DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Here, applicants have filed the required petition fee, and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Applicants have filed a declaration executed by inventor Trevor Redvers BRIDLE and containing an unsigned signature block for the nonsigning inventor Stefan SKRYPSKI-MANTELE. This declaration satisfies item (3).

Regarding item (4), the petition states that the assignee has forwarded a copy of the application materials to the nonsigning inventor at his last known address, and that no response has been received. This statement is insufficient to support the conclusion that the inventor has refused to sign the application or can not be located after diligent effort. Pursuant to MPEP section 409.03(d), before it can be concluded that an inventor has refused to join in the application, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicant has not provided a statement of facts from the person who provided the application papers to the inventor, nor have details of this presentation and or any documentary evidence of delivery or receipt been provided. It is noted that, generally, the failure of an inventor to respond to a single mailing, receipt of which has not been confirmed, is not considered a constructive refusal to sign the application.

Before item (4) can be considered satisfied, applicants must provide the required firsthand evidence (with documentary support) demonstrating that the complete application papers and a request for signature have been delivered to the nonsigning inventor, and that he has refused to execute the application papers.

### CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy item (4) of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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